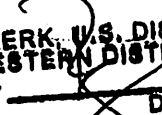


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

FEB 11 2013

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

V.

GEMASE LEE SIMMONS,

Defendant.

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CRIMINAL NO. SA-12-CR-108-FB

THE VERDICT AND OPINION OF THE COURT

Before the Court is whether Defendant Gemase Lee Simmons is guilty or not guilty of thirty-nine counts of an indictment against him. It is a sordid tale of stolen money and, more tragically, stolen childhood innocence.

The allegations include violations of federal law concerning bank fraud, production of child pornography, distribution of child pornography, transportation of child pornography, receipt of child pornography, possession of child pornography and extortion.

The Court, sitting in a non-jury trial following a waiver of jury right by the Defendant in open court, heard twenty-eight witnesses, some of whom gave emotionally painful testimony. Non-testimonial evidence included tens of thousands of bank records, text messages and sexually explicit photographs and videos of female and male minors and young adults. Given the complexity and magnitude of the evidence and that there are no perfect trials, counsel for the United States and Defendant advocated exceedingly well and professionally.

THE GOVERNMENT CASE

As law enforcement pulled back the curtain, evidence revealed Defendant using multiple personas reminiscent of “Catch Me If You Can” and “The Great Impostor.”¹ The hypnotic result was

¹ “Catch Me If You Can” is a 2002 American biographical crime film based on the book *Catch Me If You Can* by Frank Abagnale. Before his nineteenth birthday, Mr. Abagnale successfully performed cons worth millions of dollars by posing as a Pan American World Airways pilot, a Georgia doctor, and a Louisiana parish prosecutor. His primary

the Wizardly² manipulation, sexual exploitation and preying upon the naiveté of over one hundred minors, parents, young adults and banks for the fiscal and physical gratification of Defendant's twisted predatory mind, producing victims who were "terrified" and "wanted to commit suicide." Another title apropos for this drama is *Something Wicked This Way Comes*.³

Evidence also showed the dark side of computers, texting, digital photography and cell phone technology, beyond the supervision and control of loving and cautious parents. While not a defense to these heinous crimes, a bright light shone on the culturally corrupting influence of the mesmerizing allure of money, modeling and media fame which materialistic victims and their parents thought Defendant would provide, ephemerally fraudulent though it was. *Homo sapien* greed and American materialism never cease to amaze and disturb the Court. If it sounds too good to be true, it usually is.⁴

But for heroically meticulous efforts by federal and local law enforcement, the thievery, sexual oppression and psychological ruination would have continued. Indeed, one young woman cried tears of joy upon receiving word from FBI Special Agent Larry Baker that her nightmare of suffering was over.

crime was check fraud, and he became so skillful that the FBI eventually turned to him for help in catching other check forgers. CATCH ME IF YOU CAN (DreamWorks 2002). "The Great Impostor" is a 1961 movie based on Robert Crichton's 1959 biography of the same name. The film follows the true story of an impostor named Ferdinand Waldo Demara. As he is arrested by the Coast Guard on an island in New England, a man born as Ferdinand Waldo Demara, but known by many other identities, recalls the events that brought him to this point. He impersonated an officer in the United States Marines, faked his own suicide, hid out as a Trappist monk, impersonated a Texas prison warden while incarcerated, blackmailed an inmate and fled from prison, performed dental work, used forged credentials of a physician, and operated in a Korean hospital which led to him being hailed as a "miracle doctor." The FBI eventually hired an agent whose sole assignment was to track down and capture "The Great Impostor." In the end, the agent is revealed to be Demara himself. (UNIVERSAL PICTURES 1961).

² The "Wizard of Oz" is a 1939 American film based on the 1900 novel *The Wonderful Wizard of Oz* by L. Frank Baum. Throughout the film, the main character, Dorothy, believes the Wizard has the power to return her to her home in Kansas. However, at the end of the film, the Wizard is exposed as a normal man with no special powers. THE WIZARD OF OZ (Metro-Goldwyn-Mayer 1939).

³ A novel written by Ray Bradbury followed by a screenplay of the same name in 1983.

⁴ "If it sounds too good to be true, it usually is" is a catchphrase attributed to the Better Business Bureau ("BBB"). The phrase has been used by the BBB since 1954. In 1962, the BBB produced a short film titled *Too Good to be True* to alert the public to questionable business practices.

THE DEFENSE CASE

Following the Government's case, Defendant was thoroughly admonished regarding his Fifth Amendment right not to testify. Defendant chose to waive that silence right and testified on direct and cross examination for almost four hours.

While the Court cannot say Defendant's testimony sank to the level of perjury, it could easily be categorized as Nixonian obfuscation.⁵ Although Defendant admitted to lying about certain matters and to three counts in the indictment, he denied responsibility for the remaining thirty-six counts even though he agreed (1) he was present and (2) that crimes were committed. His explanations of his innocence consisted of assertions that all other criminal acts were committed because of (1) Black Ice malicious software, (2) Tasha Goodlow, (3) Israel Cardoza, and (4) persons unknown to Defendant who were "targeting" him and playing him for a "patsy," analogous to the political concept of "Don't tax thee, don't tax me, tax that fellow behind the tree."⁶ But here, the people behind the tree existed only in Defendant's imagination.

With reference to his confession to the FBI, his explanation was that "I was being facetious."⁷

The videos the Court witnessed, some of which included Defendant as participant, showed distraught and tearful young women. Coming to Court to give live testimony, and supported by parental testimony, many more tears were shed. Defendant's opinion is that such watery eyes were caused by "allergies."

Defendant stated, and the Court finds as true, that he grew up as a gifted and talented student. The Court also finds that Defendant, in his own mind, truly believes his story: that young women and

⁵ Upon the release of President Nixon's long-secret grand jury testimony in the Watergate scandal, one historian remarked "he would be rich if he had \$10 for every 'I don't recall' uttered by the former president." Nina Totenberg, *Newly Released Testimony is Vintage Nixon*, NPR, Nov. 10, 2011. For instance, when President Nixon was faced with the transcript of a recorded Oval Office conversation in which he ordered the destruction of documents, President Nixon responded: "The references to destruction are mystifying to me. I can't recall directing that they be destroyed." *Id.*

⁶ United States Senator Russell Long (D-La). *THE YALE BOOK OF QUOTATIONS* 470 (Fred R. Shapiro ed., 2006).

⁷ LOL

men were victimized by persons and phantoms unknown. While such mental gymnastics may be the reality show Defendant created in his mind, the Court finds them delusional, incredible, contradictory and repudiated by overwhelming evidence.

CONCLUSION

The Court finds Defendant acted with malice aforethought to accomplish his criminal purposes, his evil heart fatally bent on mischief.

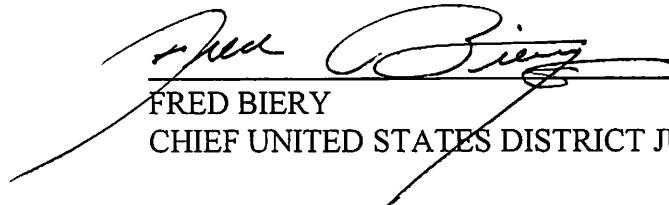
Dante wrote of only nine circles of hell.⁸ Defendant's pervertedly cruel behavior created a tenth earthly level for the victims, including one who wanted "out of this hell hole."

The Court finds the Government has met its burden of proving beyond a reasonable doubt each of the elements necessary to find Defendant guilty of all thirty-nine counts in the indictment.

Defendant is remanded to the custody of the United States Marshal to await sentencing on Friday, May 10, 2013, at 8:30 a.m.

It is so ORDERED.

SIGNED this 11th day of February, 2013.


FRED BIERY
CHIEF UNITED STATES DISTRICT JUDGE

⁸ *Inferno* (Italian for "hell") is the first part of Dante Alighieri's fourteenth century epic poem *Divine Comedy*. In the poem, hell is depicted as nine circles of suffering located within the Earth: Limbo (First Circle), Lust (Second Circle), Gluttony (Third Circle), Greed (Fourth Circle), Anger (Fifth Circle), Heresy (Sixth Circle), Violence (Seventh Circle), Fraud (Eighth Circle) and Treachery (Ninth Circle). The *Divine Comedy* represents the symbolic journey of the soul towards God, with the *Inferno* describing the recognition and rejection of sin. DOROTHY L. SAYERS, *HELL* 19 (1949).